



Proposed Licensing Requirement

Section 21, Home and Community Benefits for Members with Intellectual Disabilities or Autism Spectrum Disorder

UPDATE: June 25, 2020

In response to the current public health emergency, the new licensing deadline for small Section 21 Agency Group Homes that serve one or two members has been extended to April 1, 2021. The Department believes this extension will allow unlicensed providers to continue focusing resources on keeping waiver members safe and healthy during the pandemic.

To date, 109 providers have voluntarily applied for licensure, and 55 have been licensed. Unlicensed homes that wish to proceed with licensing now are strongly encouraged to do so.

What has been proposed?

The Department has proposed the licensing of all Section 21 Home Support- Agency Per Diem settings, commonly called Agency Group Homes. At present, the Department does not require licensing for small Agency Group Homes that serve one or two members. In addition to the licensing rules for assisted housing, these facilities will be required to comply with the one-family and two-family dwelling chapter of the National Fire Protection Association's [Life Safety Code](#). This change will bring small Agency Group Homes into alignment with the existing licensing requirements for larger Agency Group Homes that provide services to three or more members.

Why is the Department proposing this change?

This change is proposed to ensure that all Section 21 members residing in Agency Group Homes have the same protections. The National Association of Medicaid Fraud Control Units has found that unlicensed facilities can lead to safety and sanitation issues, among other concerns such as fraud. Thirty states currently require residential care homes to be licensed if they have at least one bed. Licensing ensures that trained professionals visit and assess each site, and it reduces the risk of abuse, neglect, and exploitation.

The change will also help address quality issues and ensure consistency in the areas of medication management and administration, staffing ratios and supervisory oversight, and comprehensive and appropriate training of staff. In light of COVID-19, licensure will also allow for consistent infection control policies and practices across all Agency Group Home settings.

When and where will changes occur?

It is proposed that all Agency Group Homes serving one or two members will need to be licensed or issued a provisional license by April 1, 2021. This will impact 560 facilities, which serve 54% of Section 21 waiver members who live in Agency Group Homes (approximately 1,000 individuals). There will be an exception to this proposed requirement outlined in MaineCare rule for locations owned or leased by the member or the member's parents, siblings, or legal guardian.

What are some examples of requirements under the licensing rules?

Facilities will be required to:

- Comply with all laws and regulations regarding fire safety, plumbing, water supply, sewage disposal, and maintenance of sanitary conditions.
- Develop a disaster plan for situations involving the loss of power, heat, lights, etc.
- Keep members' records confidential and allow members access to their records when requested.

How will the Department assist providers and members?

The DHHS Division of Licensing and Certification (DLC) will work collaboratively with facilities affected by this proposed rule to attain licenses by April 1, 2021. It will provide technical assistance for facilities that would like more information about these regulations and will assist providers to achieve compliance. DLC and the Office of Aging and Disability Services will work together to assist any member who may need to be relocated due to an unsafe/unhealthy licensing survey.

How can I learn more?

The licensing regulations can be found at <https://www.maine.gov/sos/cec/rules/10/ch113.htm>.